

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36241
Docket No. SG-35544
02-3-99-3-462**

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Burlington Northern Santa Fe Railway)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Santa Fe Railroad Co. (former Burlington Northern Railroad):

Claim on behalf of L. W. Krouse, D. J. Richards, M. D. Anthony, L. R. Brethouwer, T. L. Jeffrey, M. E. Behm and D. J. Nordhues, for eight hours each at their respective straight time rates, and K. E. Naslund, R. W. Bush, D. L. Alexander, M. A. Addis, R. D. Simmons and J. D. Williams, for 80 hours each at their respective straight time rates, account Carrier violated the current Signalmen’s Agreement, particularly Rules 1 and 2, when it used non-covered employees to install power operated switch machines at Galesburg, Illinois and Lincoln, Nebraska, and deprived the Claimants of the opportunity to perform this work. Carrier File No. SLA 98-02-28-AA. General Chairman’s File No. CD-3-98. BRS File Case No. 10962-BN.”

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

As Third Party in Interest, the Brotherhood of Maintenance of Way Employes was advised of the pendency of this dispute, but chose not to file a Submission with the Board.

The two claims herein have been consolidated by agreement of the parties because of the commonality of issues. Both claims challenge the Carrier's use of Maintenance of Way forces to install some 32 solar powered, battery operated and hydraulically actuated switch stands.

Upon careful review of the record, we find that the Carrier's assertion that the devices were "... not part of, connected to or through a signal system ..." was not refuted by the Organization on the property. Given this fact, thus proven, we are compelled to find that the work was not encompassed by the Scope Rule of the parties' Agreement. The claims, therefore, must be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 24th day of September 2002.